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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,095	01/26/2001	David Konetski	16356.578 (DC-02701)	7695
27683 7590 12/11/2007 HAYNES AND BOONE, LLP 901 Main Street Suite 3100 Dallas, TX 75202			EXAMINER DALENCOURT, YVES	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/771,095

Applicant(s)

KONETSKI ET AL.

Examiner

Yves Dalencourt

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27, 29-46 and 48-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27, 29-46, and 48-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is responsive to Request for Continued Examination (RCE) filed on 10/11/2007.

Response to Amendment

The Declaration filed on 10/11/2007 under 37 CFR 1.131 is sufficient to overcome the Lai et al (2004/0193648) reference.

The Examiner has acknowledged the amended claims 27, 29 – 46, 48, and the cancellation of claims 28 and 47.

Response to Arguments

Applicant's arguments with respect to claims 27, 29 – 46, and 48 - 52 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27 – 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Michael Charles Raley (US 7073199; hereinafter Raley).

Regarding claims 27, 40, and 46, Raley teaches a personal computer comprising a processor and a memory (col. 2, line 62 through col. 3, line 13) for retrieving digital media from a content provider, wherein the retrieving is performed by a processor of a personal computer (col. 7, lines 27 - 38); performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer (col. 7, line 38 through col. 8, line 2); storing the authorized digital media content in a memory of the personal computer (col. 8, lines 2 - 14); and providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing is performed by the personal computer (col. 8, line 53 through col. 9, line 9).

Regarding claims 29 and 48, Raley teaches the personal computer of claims 27 and 46, wherein the personal computer comprises a laptop computer (col. 9, lines 60 – 64; Raley discloses a portable computer).

Regarding claims 30 and 49, Raley teaches the system and method of claims 27 and 46, wherein the content provider comprises a server reachable by the computer system over a network (col. 8, lines 27 - 29).

Regarding claims 31 and 51, Raley teaches the system and method of claims 27 and 46, wherein the content provider comprises a local input device (COL. 1, LINES 49 – 61; col. 2, lines 55 - 61).

Regarding claims 32 and 33, the Examiner takes Official Notice that having a content provider, which comprises a USB, and a CD-ROM is well known in the art.

Regarding claims 34 and 50, the Examiner takes Official Notice that using a Bluetooth to receive authorized digital media content is well known in the art.

Regarding claims 35 and 36, Raley teaches the system of claim 27, wherein the thin media client comprises an audio client; and wherein the digital media content comprises an audio file (col. 10, lines 10 - 18).

Regarding claims 37, the Examiner takes Official Notice that having a digital media content comprises realtime audio information is well known in the art.

Regarding claims 38 – 39, Raley teaches the system and method of claims 2 and 15, wherein the thin media client comprises a video client, and wherein the digital media content comprises video information; and wherein the thin media client comprises an image client, and wherein the digital media content comprises image information (col. 10, lines 10 - 18).

Regarding claim 41, Raley teaches the personal computer of claim 40, wherein the organization functions allow a user to set preferences associated with a client (col. 9, lines 29 – 36; Raley discloses that the contents of the set of rights may be determined based on the document, the user's identity, a payment made by the user, **or any other parameter**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 42 – 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michael Charles Raley (US 7073199; hereinafter Raley) in view of John C. Platt (US 6,987,221; hereinafter Platt).

Regarding claim 42, Raley teaches substantially all the limitations in claim 40, but fails to specifically teach that the organization functions allow a user to set preferences associated with a client create playlist of stored organized digital media content.

However, Platt teaches an analogous auto playlist generation with multiple seed songs, which allows a user to create a playlist of stored organized digital media content (col. 1, lines 12 – 67; col. 2, lines 16 – 36; col. 4, lines 4 – 11 and lines 45 - 50).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Raley by incorporating an organization functions that allow a user to create playlists of stored organized digital media content as evidenced by Platt for the purpose of permitting user(s) to select different moods and/or styles (e.g., dance music, classical, big band, country, heavy metal and the like), thereby allowing a playlist that meets user's preferences.

Regarding claim 43, Raley and Platt teach all the limitations in claim 40, and Platt further teaches that the organization functions allow a user to manage a favorites list of organized digital media content (col. 1, lines 12 – 67; col. 2, lines 16 – 36; col. 4, lines 4 – 11 and lines 45 - 50). The motivation in claim 42 also applied for claim 43.

Regarding claim 44, Raley and Platt teach all the limitations in claim 40, and Platt further teaches that the organization functions allow a user to manage the amount of organized digital media stored on the computer system (col. 1, lines 12 – 67; col. 2, lines 16 – 36; col. 4, lines 4 – 11 and lines 45 - 50). The motivation in claim 42 also applied for claim 44.

Regarding claim 45, Raley and Platt teach all the limitations in claim 40, and Platt further teaches that the organization functions allow a user to select digital media content to be retrieved (col. 1, lines 12 – 67; col. 2, lines 16 – 36; col. 4, lines 4 – 11 and lines 45 - 50). The motivation in claim 41 also applied for claim 45.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rabne et al (US Patent Number 6,006,332) discloses rights management system for digital media (see col. 3, line 50 through col. 4, line 21).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272 4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 01, 2007


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